

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ERENDIRA ESPERANZA,
GUZMAN-IBARGUEN, individually;
ERENDIRA MEJIA-GUZMAN,
individually; MARIA FERNANDEZ
MEJIA-GUZMAN, individually;
TAMMY HARLESS as Special
Administrator for the Estate of OSCAR
ANICETO MEJIA-ESTRADA,

Plaintiffs,

vs.

SUNRISE HOSPITAL, MEDICAL
CENTER, LLC; OSCAR CHAVES,
RN; ERIC S. DENNIS, MD; NANCY
BEASLEY, RN; ARLAMAY
ROGERS, RN; LAUREN
HENDRICKS, RN; MARCELINO A.
TACADENA, RN; TINA HAYES,
CNA; VICKY STRAUSS, RN; TIEN
CHANG WANG, MD; DR. WADE
SEARS; ANTHONY KEILY,
JEFFREY JOHNSTON; SOUTHWEST
EMERGENCY ASSOCIATES, et al.,

Defendants.

2:10-CV-01228-PMP-PAL
(Base File)

2:10-CV-01983-PMP-GWG

ORDER

Before the Court for consideration are Cross-Motions for Summary
Judgment filed on behalf of Plaintiffs' (Doc. #47) and Defendants' Sunrise Hospital,
Medical Center, LLC, Oscar Chaves, RN, Nancy Beasley, RN, Lauren Hendricks,

1 RN, Marcelino A. Tacadena, RN, Tina Hayes, CNA, Vicky Strauss, RN, Anthony
2 Keily, Jeffrey Johnston's Opposition and Counter-Motion for Summary Judgment
3 (Doc. #57) in the above referenced consolidated cases.

4 In case number 2:10-CV-1228-PMP-PAL, Plaintiffs' assert a single claim
5 against Defendant Sunrise Hospital and Medical Center LLC., for violation of the
6 Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C. § 1395dd.

7 In case number 2:10-CV-1983-PMP-GWF, the same Plaintiffs' assert a
8 claim for medical malpractice against all Defendants except Defendants' Tien Chang
9 Wang, M.D, Southwest Emergency Associates, and Fremont Emergency.

10 Therefore, this Order does not address the claims asserted against Defendants' Tien
11 Chang Wang, M.D., Southwest Emergency Associates, or Fremont Emergency.

12 Having considered the extensive briefing of the parties, as well as the
13 arguments of counsel presented at the hearing conducted July 11, 2011, the Court
14 finds that to the extent Plaintiffs' seek summary judgment on their medical
15 malpractice claim against Defendants, said motion must be denied. Discovery in this
16 case is ongoing and is currently scheduled to be completed by August 29, 2011.
17 Although the ongoing discovery will undoubtedly further clarify factual issues
18 relating to Plaintiffs' medical malpractice claim, Defendants have raised multiple
19 genuine issues of material fact which weigh against granting Plaintiffs' Motion for
20 Summary Judgment as to that particular claim.

21 The Court finds, however, that to the extent the Cross-Motions for
22 Summary Judgment of Plaintiffs (Doc. #47) and Defendant Sunrise Hospital
23 (Doc. #57) seek resolution of Plaintiffs' claim for violation of EMTALA in case
24 number 2:10-CV-1228-PMP-GWF, said matter is ripe for resolution on summary
25 judgment. Specifically, the Court finds that Defendants' Sunrise Hospital and
26 Medical Center's Cross-Motion for Summary Judgment (Doc. #57) should be

1 granted as to Plaintiffs' EMTALA claim, and Plaintiffs' Motion for Summary
 2 Judgment against Sunrise Hospital on their EMTALA claim (Doc. #47) should be
 3 denied.

4 This case raises out of the tragic death of Plaintiffs' decedent, Oscar
 5 Aniceto Mejia-Estrada who committed suicide while in the care of Sunrise Hospital
 6 and Medical Center approximately 12 hours after his arrival on July 27, 2008. The
 7 circumstances surrounding the care and treatment provided to Mr. Mejia-Estrada
 8 during his 12 hour stay at Sunrise Hospital are the subject of Plaintiffs medical
 9 malpractice claim against the Defendants in case number 2:10-CV-1983. However,
 10 as the United States Court of Appeals for the Ninth Circuit made clear in
 11 Baker v. Adventist Health, Inc., 260 F.3d 987, 993 (9th Cir. 2001), EMTALA "... is
 12 not intended to create a national standard of care for hospitals or to provide a federal
 13 cause of action akin to a state law claim for medical malpractice." Indeed, EMTALA
 14 expressly contains a non-preemption provision for state remedies. *See* 42 U.S.C. §
 15 1395dd(f).

16 EMTALA imposes two duties on hospital emergency rooms: a
 17 duty to screen a patient for an emergency medical condition, and,
 18 once an emergency condition is found, a duty to stabilize the
 19 patient before transferring or discharging him. *See* 42 U.S.C. §
 20 139dd; *Jackson v. East Bay Hospital*, 246 F. 3d 1248, 1254-55
 21 (9th Cir. 2001). The statute requires the emergency department to
 22 "provide for an appropriate medical screening examination with-
 23 in the capability of the hospital's emergency department,
 24 including ancillary services routinely available to the emergency
 25 department, to determine whether or not an emergency medical
 26 condition ... exists." 42 U.S.C. § 1395dd(a). If the *993 hospital
 determine that an individual has an emergency medical condition,
 it must provide "within the staff and facilities available at the
 hospital, for such further medical examination and such treatment
 as may be required to stabilize the medical condition." 42 U.S.C.
 § 1395dd(b)(1)(A).

The hospital's duty to stabilize arises only when it actually
 detects an emergency medical condition. *Jackson*, 246 F.3d at
 1257. If the patient's condition has not been stabilized, the
 hospital may not transfer the patient or her proxy requests for

1 transfer in writing, or (2) a physician or other medical
 2 professional certifies that the medical benefits available at the
 3 other facility outweigh the risks of transfer. *See 42 U.S.C. §*
 4 *1395dd(c)(1)*. Any transfer of a patient whose emergency
 condition has not been stabilized must comply with additional
 requirements set forth in the statute in order to qualify as an
 “appropriate transfer.” *See 42 U.S.C. § 1395dd(c)(2)*.

5 Congress enacted EMTALA to respond to the specific problem of
 6 hospital emergency rooms refusing to treat patients who were
 7 uninsured or who could otherwise not pay for treatment. In such
 8 situations, emergency rooms would either decline to provide
 9 treatment or transfer patients in an unstable condition to other
 hospitals, thereby jeopardizing patients’ health. *See H.R.ep. No.*
99-241, pt. I, at 27 (1985), reprinted in 1986 U.S.C.C.A.N. 579,
605; Jackson, 246 F.3d at 1254.

10 260 F.3d at 992-993 (footnotes omitted).

11 As the United States Court of Appeals for the 9th Circuit made clear in
 12 *Baker*, EMTALA explicitly limits the screening examination that a hospital is
 13 required to provide to one that is within the capability of the hospital’s emergency
 14 department. *Baker*, 260 F.3d 993. The record clearly establishes here that while
 15 Defendant Sunrise Hospital performed a medical screening of Mr. Mejia on July 27,
 16 2008, it did not at that time have the capability to perform mental health screening.
 17 Instead, Mr. Mejia was moved to the Discharge and Observation Unit (“DOU”) at
 18 Sunrise Hospital to be held for observation until he could receive the requisite
 19 psychiatric evaluation from Southern Nevada Adult Mental Health, to determine
 20 whether he would be admitted to their psychiatric facility. The record further reflects
 21 that once Mr. Mejia was transferred to the DOU, suicide prevention precautions
 22 were initiated at Sunrise Hospital. The question, whether Sunrise Hospital and the
 23 other named Defendants adequately discharged their duty of care to protect against
 24 Mr. Mejia’s suicide is the subject of Plaintiffs’ claim of medical malpractice against
 25 Defendants in 2:10-CV-1983. This issue is not, however, determinative of Plaintiffs’
 26 EMTALA claim against Sunrise Hospital.

1 The Court finds there is no genuine issue of material fact that Defendant
2 Sunrise Hospital discharged its responsibility under EMTALA to perform a required
3 medical screening of Mr. Mejia when he presented to the hospital on January 27,
4 2008. Neither is there an genuine issues of material fact that Sunrise Hospital
5 violated EMTALA by discriminatorily failing to provide mental health screening for
6 Mr. Mejia. It did not. As established clearly by the United States Court of Appeals
7 for the Ninth Circuit in Baker, EMTALA explicitly recognizes the differences among
8 the capabilities of hospital emergency rooms by limiting the required screening to
9 that which is within the capability of a given emergency department. Sunrise
10 Hospital cannot be charged with discriminating against Mr. Mejia by failing to
11 provide him with mental health screening where the hospital lacked the capacity to
12 do so. 260 F.3d, at 995. Defendant Sunrise Hospital is entitled to summary
13 judgment on Plaintiffs' EMTALA claim in accordance with Rule 56 of the Federal
14 Rules of Civil Procedure.

15 **IT IS THEREFORE ORDERED** that Defendant Sunrise Hospital and
16 Medical Center's Motion for Summary Judgment (Doc. #57) is hereby **GRANTED**
17 as to Plaintiffs EMTALA claim asserted in case number 2:10-CV-1228-PMP-GWF.

18 **IT IS FURTHER ORDERED** that Plaintiffs' Motion for Summary
19 Judgment (Doc. #47) against Defendants' Sunrise Hospital and Medical Center for
20 violation of EMTALA and against all Defendants for medical malpractice, is
21 **DENIED.**

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